Reg. No. KL/TV/12

Government of Kerala
1978

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIII] Trivandrum, Wednesday, 12th July 1978 / 21st Ashadha 1900 [No. 463

GOVERNMENT OF KERALA

Home (SSA) Department

NOTIFICATION

No. 30586/SSA2/78/Home *Dated, Trivandrum, 12th July 1978.*

In exercise of the powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952) the Government of Kerala hereby make the following amendment to the notification No. 24663/SSB4/77/Home dated the 27th May 1977 published in the Kerala Gazette Extraordinary No. 317 dated the 27th May 1977 as subsequently amended, namely:—

AMENDMENT

In the said notification for the words, "the report should be submitted on or before 27-7-1978" the following shall be substituted, namely:

"The report should be submitted on or before 27-10-1978".

By order of the Governor,
J. S. JESUDHASAN,
Special Secretary to Government.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1978.

33/2511/MC.

Government of Kerala
1978

Reg. No. KL/TV/13

KERALA GAZETTE

EXTRAORDINARY

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Vol. XXIII] Trivandrum, Wednesday, 12th July 1978 / 21st Ashadha 1900 [No. 461

NOTICE

Under Section 9 (5) of The Kerala Land Acquisition Act, 1961 (Act 21 of 1962)

No. C8-44416/78. 11*th July* 1978.

Notice is hereby given that the Government intend to take possession of the lands mentioned in the list below, which are required for a public purpose under the Kerala Land Acquisition Act, 1961 (Act 21 of 1962). All persons interested in the lands are required to appear in person or by authorised agent on 31-7-1978 at 11 a.m. before the Deputy Collector (L.A.), Collectorate Ernakulam at Village Office Maradu and to state/put in a statement in writing signed by themselves or their agents showing the nature of their respective interests in the land and the amount and particulars of their claim to compensation for such interests in the lands and their objections, if any, to the measurements made under section 8 of the Act.

Note.—If the persons interested refuse to make a claim to compensation or omit without sufficient reasons, to make such claim, the amount to be awarded by the Court, in the event of a reference being made to it on application made by them shall in no case exceed the amount awarded by the Collector under section 11 of the Act.

താഴെ കൊടുത്തിരിക്കുന്ന ലിസ്ററിൽ പറഞ്ഞിട്ടുള്ളതും, 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്ററ് (1962-ലെ 21-ാം ആക്ററ്) പ്രകാരം ഒരു പൊതു കാര്യത്തിന് ആവശ്യമായിട്ടുള്ളതുമായ ഭൂമി കൈവശപ്പെടുത്തുവാൻ ഗവൺമെൻറ് ഉദ്ദേശിക്കുന്നുവെന്ന് ഇതിനാൽ നോട്ടീസ് നൽകിയിരിക്കുന്നു. പ്രസ്തുത ഭൂമിയിൽ അവകാശബന്ധമുള്ള എല്ലാപേരും നേരിട്ടോ, അധികൃത ഏജൻറുമൂലമോ 1978 ജൂലായ് 31-ാം തീയതി രാവിലെ 11 മണിക്ക് മരട് വില്ലേജ്

ആഫീസിൽ എറണാകുളം ലാൻഡ് അക്വിസിഷൻ ഡെപ്യൂട്ടി കളക്ടർ അവർകൾ മുമ്പാകെ ഹാജരാകുകയും ഭൂമിയിൽ അവരോരോരുത്തർക്കുമുള്ള അവകാശ ബന്ധങ്ങളുടെ സ്വഭാവവും ഭൂമിയിൽ അങ്ങനെയുള്ള അവകാശബന്ധങ്ങൾ സംബന്ധിച്ചിടത്തോളം നഷ്ടപ്രതിഫലത്തിന് അവർക്കുള്ള തേർച്ചയുടെ തുകയും വിവരങ്ങളും ആക്റ്റ് 8-ാം വകുപ്പുപ്രകാരം പറഞ്ഞിട്ടുള്ള അളവു സംബന്ധിച്ച് വല്ല ആക്ഷേപവുമുണ്ടെങ്കിൽ അതും ഏതാണെന്ന് കാണിച്ചുകൊണ്ട് പ്രസ്താവന ചെയ്യുകയും അവരോ അവരുടെ ഏജൻറുമാരോ എഴുതി ഒപ്പിട്ട ഒരു സ്റ്റേററുമെൻറ് സമർപ്പിക്കുകയും ചെയ്യണമെന്ന് അവരോട് ആവശ്യപ്പെടുന്നു.

കുറിപ്പ്.—അവകാശബന്ധമുള്ളവർ നഷ്ടപ്രതിഫലത്തിന് തേർച്ച ചെയ്യാൻ കൂട്ടാക്കാതിരിക്കുകയോ, മതിയായ കാരണമില്ലാതെ അങ്ങനെ തേർച്ചചെയ്യാൻ വീഴ്ച ചെയ്യുകയോ ചെയ്യുന്നപക്ഷം അവരുടെ അപേക്ഷയിൻമേൽ കോടതിക്ക് റഫറൻസ് അയയ്ക്കുന്ന സംഗതിയിൽ കോടതി വിധിച്ചുകൊടുക്കേണ്ട തുക യാതൊരു സംഗതിയിലും ആക്റ്റ് 11-ാം വകുപ്പുപ്രകാരം കളക്ടർ വിധിച്ചുകൊടുക്കുന്ന തുകയിൽ കവിയാൻ പാടില്ലാത്തതാകുന്നു.

Particulars of lands

Taluk.—Kanayannur. *District.*—Ernakulam. *Village.*—Maradu

Survey No.	*Description*	*Extent in hectare*
533/5	Nilam	0. 0346
533/6	do.	0. 0409
532/6	do.	0. 0865
532/8	do.	0. 1813
532/7	do.	0. 0006
531/10	do.	0. 0880
531/4	do.	0. 0243
531/9	do.	0. 1154
531/8	do.	0. 0270
552/6	do.	0. 1460
552/7	do.	0. 2928
555/7	do.	0. 0027
555/8	do.	0. 0360
554/4	do.	0. 1460
553/6	do.	0. 0157
	Total	1. 2378

Ernakulam.

C. Ramankutty Warrier,
Deputy Collector (L.A.), Collectorate.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1978.

Reg. No. KL/TV/13

Government of Kerala
1978

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIII] Trivandrum, Wednesday, 12th July 1978 / 21st Ashadha 1900 [No. 464

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 1222/LA5/78. *Dated, Trivandrum, 12th July, 1978.*

The Kerala Appropriation (No. 2) Bill, 1978 together with the Statement of Objects and Reasons, is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1978.

33/2519/MC.

Fifth Kerala Legislative Assembly

Bill No. 83

THE KERALA APPROPRIATION (No. 2) BILL, 1978

A

BILL

to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Kerala for the services of the financial year commencing on the first day of April, 1978.

Preamble.—WHEREAS it is necessary to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Kerala for the services of the financial year commencing on the first day of April, 1978;

BE it enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Appropriation (No. 2) Act, 1978.

2. *Withdrawal of Rs.* 9,23,52,33,600 *from and out of the Consolidated Fund of the State of Kerala for the financial year commencing on the first day of April* 1978.—From and out of the Consolidated Fund of the State of Kerala there may be paid and applied sums not exceeding those specified in column (3) of the Schedule amounting in the aggregate to the sum of nine hundred and twenty-three crores, fifty-two lakhs, thirty-three thousand and six hundred rupees [which shall be inclusive of the sum of three hundred and seven crores, eighty-four lakhs, eleven thousand and one hundred rupees specified in section 2 of the Kerala Appropriation (Vote on Account) Act, 1978 (17 of 1978)] towards defraying the several charges which will come in course of payment during the financial year commencing on the first day of April, 1978, in respect of the services and purposes specified in column (2) of the Schedule.

3. *Appropriation.*—The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Kerala by this Act shall be appropriated for the services and purposes specified in the Schedule in relation to the said year.

The Schedule

(*See* sections 2 and 3)

(1)	(2)		(3)		
			Sums not exceeding		
No. of Vote	*Services and purposes*		*Voted by the Assembly* Rs.	*Charged on the Consolidated Fund* Rs.	*Total* Rs.
I	State Legislature	Revenue	50,72,700	1,14,000	51,86,700
II	Heads of States, Ministers and Headquarters Staff	Revenue	4,06,56,900	87,55,900	4,94,12,800
III	Administration of Justice	Revenue	4,03,07,400	48,51,600	4,51,59,000
IV	Elections	Revenue	41,85,100	..	41,85,100
V	Agricultural Income Tax and Sales Tax	Revenue	3,28,37,300	35,000	3,28,72,300
VI	Land Revenue	Revenue	8,23,12,500	1,39,700	8,24,52,200
VII	Stamps and Registration fees	Revenue	2,77,72,500	..	2,77,72,500
VIII	Excise	Revenue	1,89,48,000	15,000	1,89,63,000
IX	Taxes on Vehicles	Revenue	67,84,200	1,000	67,85,200
	Debt Charges	Revenue	..	45,76,36,700	45,76,36,700
X	Treasury and Accounts	Revenue	2,26,37,600	..	2,26,37,600

XI	District Administration and Miscellaneous	Revenue	3,29,52,600	46,71,000	3,76,23,600
XII	Police	Revenue	21,38,87,000	20,000	21,39,07,000
XIII	Jails	Revenue	1,47,96,100	10,000	1,48,06,100
XIV	Stationery and Printing and other Administrative services	Revenue	3,61,50,300	..	3,61,50,300
XV	Public Works	Revenue	23,92,20,000	5,60,000	23,97,80,000
		Capital	8,10,10,300	4,02,000	8,14,12,300
XVI	Pensions and Miscellaneous	Revenue	21,18,18,900	59,04,300	21,77,23,200
XVII	Education, Art and Culture	Revenue	1,66,04,97,300	12,25,000	1,66,17,22,300
		Capital	5,09,34,000	1,000	5,09,35,000
XVIII	Medical	Revenue	35,95,12,000	12,100	35,95,24,100
		Capital	80,84,000	1,00,000	81,84,000
XIX	Family Planning	Revenue	5,42,43,800	..	5,42,43,800
		Capital	16,33,900	..	16,33,900
XX	Public Health	Revenue	4,70,59,700	..	4,70,59,700
XXI	Public Health Engineering	Revenue	9,67,69,500	5,000	9,67,74,500
		Capital	9,83,02,500	6,50,000	9,89,52,500
XXII	Housing	Revenue	3,03,85,200	1,00,000	3,04,85,200
		Capital	2,14,50,000	1,00,000	2,15,50,000

(1)	(2)		(3)		
			Sums not exceeding		
No. of Vote	*Services and purposes*		*Voted by the Assembly* Rs.	*Charged on the Consolidated Fund* Rs.	*Total* Rs.
XXIII	Urban Development	Revenue	1,09,09,300	..	1,09,09,300
		Capital	7,00,100	..	7,00,100
XXIV	Information and Publicity	Revenue	33,23,000	..	33,23,000
XXV	Labour and Employment	Revenue	3,17,08,400	1,000	3,17,09,400
		Capital	13,00,000	..	13,00,000
XXVI	Social Welfare including Harijan Welfare	Revenue	17,49,33,000	1,12,000	17,50,45,000
		Capital	73,50,200	..	73,50,200
XXVII	Famine	Revenue	60,00,000	..	60,00,000
XXVIII	Co-operation	Revenue	3,06,46,300	10,000	3,06,56,300
		Capital	7,93,87,700	..	7,93,87,700
XXIX	Miscellaneous Economic Services	Revenue	14,57,38,500	1,000	14,57,39,500
		Capital	1,06,49,100	..	1,06,49,100
XXX	Agriculture	Revenue	23,10,32,300	1,00,000	23,11,32,300
		Capital	7,39,09,700	1,51,000	7,40,60,700

XXXI	Food	Revenue	1,40,26,200	90,000	1,41,16,200
		Capital	3,42,13,700	10,000	3,42,23,700
XXXII	Animal Husbandry	Revenue	6,10,55,600	10,000	6,10,65,600
		Capital	55,50,100	..	55,50,100
XXXIII	Dairy	Revenue	73,14,700	..	73,14,700
		Capital	50,63,300	..	50,63,300
XXXIV	Fisheries	Revenue	2,86,65,200	15,100	2,86,80,300
		Capital	1,07,51,700	..	1,07,51,700
XXXV	Forest	Revenue	8,57,67,400	7,000	8,57,74,400
		Capital	1,15,99,000	1,000	1,16,00,000
XXXVI	Community Development	Revenue	11,72,94,100	1,000	11,72,95,100
		Capital	6,30,000	..	6,30,000
XXXVII	Industries	Revenue	5,56,41,000	100	5,56,41,100
		Capital	13,32,85,200	1,00,100	13,33,85,300
XXXVIII	Irrigation	Revenue	10,49,18,600	2,000	10,49,20,600
		Capital	40,52,87,000	2,08,000	40,54,95,000
XXXIX	Power	Revenue	5,37,00,000	..	5,37,00,000
		Capital	11,83,00,000	..	11,83,00,000
XL	Ports	Revenue	69,18,200	..	69,18,200
		Capital	4,78,75,000	1,00,000	4,79,75,000

(1)	(2)		(3)		
			Sums not exceeding		
No. of Vote	*Service and purposes*		*Voted by the Assembly* Rs.	*Charged on the Consolidated Fund* Rs.	*Total* Rs.
XLI	Transport	Revenue	86,85,900	..	86,85,900
		Capital	2,56,00,000	..	2,56,00,000
XLII	Tourism	Revenue	76,73,200	..	76,73,200
		Capital	23,50,100	..	23,50,100
XLIII	Compensation and Assignments Public Debt Repayment	Revenue	80,00,000	..	80,00,000
		Capital	..	2,98,87,09,900	2,98,87,09,900
XLIV	Contingency Fund		..	..	..
XLV	Miscellaneous Loans and Advances	Capital	5,23,21,000	..	5,23,21,000
	Total		5,76,02,95,100	3,47,49,38,500	9,23,52,33,600

STATEMENT OF OBJECTS AND REASONS

The Bill is introduced in pursuance of article 204 of the Constitution of India, to provide for the appropriation out of the Consolidated Fund of the State of Kerala of the moneys required to meet the expenditure charged on the Consolidated Fund and the grants made by the Legislative Assembly in respect of the estimated expenditure of the Government of Kerala for the financial year 1978-79.

M. K. HEMACHANDRAN

Government of Kerala
1978

Reg. No. KL/TV/12

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EXTRAORDINARY

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 5576-LA4/78. *Dated, Trivandrum, 12th July 1978.*

The Toddy Workers' Welfare Fund (Amendment) Bill, 1978 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembl .

DR. R. PRASANNAN,
Secretary
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM. 1978.

33/2510/MC.

Fifth Kerala Legislative Assembly
Bill No. 82

THE TODDY WORKERS' WELFARE FUND (AMENDMENT) BILL, 1978

A

BILL

to amend the Toddy Workers' Welfare Fund Act, 1969.

Preamble.—WHEREAS it is expedient to amend the Toddy Workers' Welfare Fund Act, 1969, for the purposes hereinafter appearing;

BE it enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Toddy Workers' Welfare Fund (Amendment) Act, 1978.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. *Amendment of Section 1.*—In section 1 of the Toddy Workers' Welfare Fund Act, 1969 (22 of 1969) (hereinafter referred to as the principal Act), in sub-section (1), for the words "Toddy Workers' Welfare Fund Act", the words "Kerala Toddy Workers' Welfare Fund Act" shall be substituted.

3. *Amendment of section 2.*—In section 2 of the principal Act,—

(i) in clause (a), for the words "Toddy Workers' Welfare Fund Board", the words "Kerala Toddy Workers' Welfare Fund Board" shall be substituted;

(ii) in clause (b), for the words "a scheme", the words "the scheme" shall be substituted;

(iii) in clause (c), for the words "distribution or sale", the words "distribution, storage or sale" shall be substituted;

(iv) in clause (d), for the words "transport or sale", in both the places where they occur, the words "transport, storage or sale" shall be substituted;

(v) for clause (e), the following clause shall be substituted, namely:—

"(e) "fund" means the Kerala Toddy Workers' Welfare Fund established under the scheme;";

(vi) for clause (g), the following clauses shall be substituted, namely:—

"(g) "member" means a member of the fund and includes any person eligible to become a member of the fund;

(gg) "prescribed" means prescribed by rules made under this Act;";

(vii) in clause (i), for the words "a scheme", the words "the scheme" shall be substituted.

4. *Amendment of section 3.*—In section 3 of the principal Act, in sub-section (1), for the words "Toddy Workers' Welfare Fund Scheme", the words "Kerala Toddy Workers' Welfare Fund Scheme" shall be substituted.

5. *Amendment of section 5.*—In section 5 of the principal Act, in sub-section (1), the words "either prospectively or retrospectively" shall be inserted at the end.

6. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) in sub-section (1), for the words "Toddy Workers' Welfare Fund Board", the words "Kerala Toddy Workers' Welfare Fund Board" shall be substituted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) The Board may, with the previous approval of the Government, delegate to its Chairman or to the Chief Welfare Fund Inspector or to any Welfare Fund Inspector such of its powers and functions under this Act or the scheme as it may consider necessary for the efficient administration of the fund, subject to such restrictions and conditions, if any, as it may specify.".

7. *Amendment of section 8.*—In section 8 of the principal Act, in sub-section (5), after the words "receipt of the order", the words "or within such further time as may be allowed by the Government or such authority, as the case may be, on being satisfied that the appellant had sufficient cause for not preferring the appeal within that period" shall be inserted.

8. *Insertion of new sections 8A and 8B.*—After section 8 of the principal Act, the following sections shall be inserted, namely:—

"8A. *Provisional assessment of contribution.*—(1) Every employer shall, pending determination under section 8 of the amount due from him, pay every month by way of advance contribution an amount equivalent to one-twelfth of the amount payable annually in respect of his shop according to the latest determination under the said section.

(2) The advance contribution for a month shall become payable on or before the 5th day of the succeeding month.

(3) Where the advance contribution is not paid on or before the due date, the Welfare Fund Inspector shall issue a notice to the defaulter showing the amount of arrears, and if the amount is not paid within seven days of the receipt of such notice, it may be recovered in the same manner as arrears of land revenue.

(4) The amount paid under this section for an year shall be adjusted against the amount determined under section 3 for that year.

8B. *Powers of revision of Government.*—(1) The Government may, of their own motion or on application by any person aggrieved, call for and examine the records of the Chief Welfare Fund Inspector including any officer exercising the powers of the Chief Welfare Fund Inspector, in respect of any proceeding, to satisfy themselves as to the regularity or the correctness, legality or propriety of any decision taken or order passed therein, and if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly:

Provided that every application to the Government for the exercise of the powers under this section shall be preferred within sixty days from the date on which the decision or order to which the application relates was communicated to the applicant.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Government may suspend the execution of any decision or order pending exercise of their power under sub-section (1).

(4) The Government shall not of their own motion initiate proceedings to revise any decision or order after the expiry of one year from the date on which such decision or order was taken or passed.".

9. *Amendment of section 9.*—In section 9 of the principal Act, after the words "be recovered", the words "together with interest thereon at the rate of nine per cent per annum" shall be inserted.

10. *Amendment of section 14.*—In section 14 of the principal Act,—

(a) in sub-section (1), for the words "three months" and "five hundred rupees", the words "six months" and "one thousand rupees" shall respectively be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) No court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act.";

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) No court shall take cognisance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made with the previous sanction of the Chief Welfare Fund Inspector.".

11. *Insertion of new sections 14A and 14B.*—After section 14 of the principal Act, the following sections shall be inserted, namely:—

"14A. *Enhanced punishment for default in payment of employees' contributions already deducted.*—(1) Whoever makes default in the payment of the employees' share of the contribution to the fund after having deducted it from the wages of the employees, in accordance with the provisions of this Act or the scheme, shall be punishable with imprisonment for a term which may extend to one year but which shall not be less than three months and with fine which may extend to four thousand rupees.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), an offence under sub-section (1) shall be cognizable.

14B. *Enhanced punishment for second or subsequent offence.*—Whoever, having been convicted by a court of an offence punishable under this Act, commits the same offence again shall be punishable for every such subsequent offence with imprisonment for a term which may extend to one year but which shall not be less than three months and with fine which may extend to four thousand rupees.".

12. *Insertion of new sections 15A, 15B and 15C.*—After section 15 of the principal Act, the following sections shall be inserted, namely:—

"15A. *Directions by Government.*—The Government may, after consultation with the Board, give to the Board general instructions to be followed by the Board.

(2) In the exercise of its powers and performance of its duties under this Act, the Board shall not depart from any general instructions issued under sub-section (1), except with the previous permission of the Government.

15B. *Power to order inquiry.*—(1) The Government may, at any time, appoint any person to inquire into the working of the Board and to submit a report to the Government.

(2) The Board shall give the person so appointed all facilities for the proper conduct of the inquiry and furnish to him such documents, accounts or information in possession of the Board as he may require.

15C. *Power to supersede the Board.*—(1) If, on consideration of the report under section 15B or otherwise, the Government are of opinion that the Board has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act or the scheme or has exceeded or abused its powers, the Government may, by notification in the Gazette, supersede the Board for such period not exceeding six months as may be specified in the notification:

Provided that, before issuing a notification under this sub-section, the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1),—

(a) all the members of the Board shall, as from the date of such publication, vacate their offices as such members;

(b) all the powers and duties which may be exercised or performed by the Board shall, during the period of supersession, be exercised or performed by such officer or officers as may be specified in the notification;

(c) all funds and other properties vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may—

(a) extend the period of supersession for such further period or periods as they may consider necessary so however that such period of supersession shall not exceed one year; or

(b) reconstitute the Board in the manner provided in section 6.".

13. *Omission of section 16*.—Section 16 of the principal Act shall be omitted.

14. *Insertion of new section 17A*.—After section 17 of the principal Act, the following section shall be inserted, namely:—

"17A. *Bar of jurisdiction of civil courts.*—No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Government or the Board or the Chief Welfare Fund Inspector or any Welfare Fund Inspector.".

15. *Insertion of new section 19*.—After section 18 of the principal Act, the following section shall be inserted, namely:—

"19. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

16. *Amendment of Schedule.*—In the Schedule to the principal Act,—

(a) after item 2, the following item shall be inserted, namely:—

"2A. The payment by the employer of such sum of money as may be necessary to meet the cost of administering the fund and the rate at which and the manner in which such payment shall be made.";

(b) in item 3, for the words "Toddy Workers' Weliare Fund Board", the word "Board" shall be substituted;

(c) after item 16, the following items shall be inserted, namely:—

"16A. The rate of gratuity payable to members and the conditions for such payment.

16B. The conditions under which any amount due to the Board may be written off.".

STATEMENT OF OBJECTS AND REASONS

Experience in the working of the Toddy Workers' Welfare Fund Act, 1969, has revealed certain difficulties in the successful implementation of the Act. It is considered necessary to amend the Act to remove such difficulties. It is also cinsidered necessary to confer certain powers on the Government to facilitate the efficient implementation of the Act. The Notes on Clauses explain in detail the various provisions of the Bill.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (1) of section 5 as proposed to be amended by clause 5 of the Bill seeks to empower the Government to add to, amend or vary the scheme framed under the Act, by notification in the Gazette, either prospectively or retrospectively.

2. Sub-section (7) of section 6 proposed to be inserted by sub-clause (b) of clause 6 of the Bill seeks to empower the Board to delegate, with the previous approval of the Government, to its Chairman or to the Chief Welfare Fund Inspector or to any Welfare Fund Inspector such of its powers and functions under the Act or the scheme as it may consider necessary for the efficient administration of the fund, subject to such restrictions and conditions, if any, as it may specify.

3. Section 15C proposed to be inserted by clause 12 of the Bill seeks to empower the Government to supersede the Board, by notification in the Gazette, for such period not exceeding six months as specified in the notification, if the Government are of opinion that the Board has persistently made default in the performance of the duties imposed on it by or under the provisions of the Act or the Scheme or has exceeded or abused its powers. Clause (a) of sub-section (3) of the said section seeks to empower the Government to extend the period of supersession for such period or periods as they may consider necessary so however that such period of supersession shall not exceed one year.

4. Section 19 proposed to be inserted by clause 15 of the Bill seeks to empower the Government to make rules for the purpose of carrying into effect the provisions of the Act.

5. The powers proposed to be delegated are of an administrative nature. Further the rules after they are made are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is thus of a normal character.

OOMMEN CHANDY

NOTES ON CLAUSES

Clause 2.—The amendment seeks to change the name of the Toddy Workers' Welfare Fund Act as "the Kerala Toddy Workers' Welfare Fund Act".

Clause 3.—This clause seeks to amend section 2 of the Act for the following purposes:—

(1) to change the name of the Toddy Workers' Welfare Fund Board as "the Kerala Toddy Workers' Welfare Fund Board";

(2) to change the reference to "a scheme" in clause (b) as "the scheme" since section 3 of the Act empowers the Government to frame only one scheme;

(3) to amplify the definition of the term employer in clause (c) to include a person who has a licence for the storage of toddy, and the definition of the term "employee" in clause (d) to include a person employed in connection with the storage of toddy, so that such persons may also get the benefit of the Act;

(4) to change the name of the Toddy Workers' Welfare Fund as "the Kerala Toddy Workers' Welfare Fund";

(5) to enlarge the meaning of the term 'member' as defined in clause (g) to include a person who is eligible to become a member of the fund, but has not actually become a member of the fund; and

(6) to insert a definition of the term "prescribed".

Clause 5.—Sub-section (1) of section 5 of the Act empowers the Government to add to, amend or vary the scheme framed under the Act. This clause seeks to amend the sub-section to empower the Government to modify the scheme retrospectively also.

Clause 6, *Sub-clause* (*b*)—The Act does not contain provision enabling the Board to delegate its powers and functions to the Chairman or any of the officers of the Board. Much difficulty is being experienced by the Board in the administration of the Act in the absence of a provision for the purpose. Sub-clause (b) seeks to insert a new sub-section in section 6 to empower the Board to delegate any of its powers and functions to the Chairman or to the Chief Welfare Fund Inspector or to any Welfare Fund Inspector.

Clause 7.—According to sub-section (5) of section 8 of the Act, any person aggrieved by an order determining the amount due

from an employer may appeal, within sixty days from the date of receipt of the order, to the Government or any other authority specified by the Government. There is no provision in the Act to enable the admission of an appeal after the said period of sixty days. This clause seeks to amend sub-section (5) to provide for admission of an appeal after the prescribed period of sixty days, if the appellant proves to the satisfaction of the appellate authority that he had sufficient cause for not preferring the appeal within the said period.

Clause 8.—There is no provision in the Act for provisional assessment of amounts due from an employer under the Act or the scheme. In order to ensure collection of amounts due from an employer before the expiry of the period of his contract, it is considered necessary to provide for advance collection of the amounts due from him and for adjusting the amounts so collected against the amount finally determined as payable by him. Section 8A proposed to be inserted by the clause provides for this purpose.

Section 8B proposed to be inserted by this clause seeks to empower the Government to revise any decision taken or order made by the Chief Welfare Fund Inspector.

Clause 9.—Section 9 of the Act provides for the recovery of any amount due under the Act or the scheme as an arrear of land revenue. But there is no provision to realise interest on belated payments. In order to check the tendency of employers to postpone payment of dues to the fund, it is necessary to provide for levy of interest on belated payments. The amendment seeks to provide for the levy of interest at the rate of 9 per cent per annum on such payments.

Clause 10.—This clause seeks to amend section 14 of the Act for the following purposes:—

(1) to enhance the maximum punishment under sub-section (1) of the section;

(2) to provide that no court inferior to that of a judicial Magistrate of the First Class shall try any offence punishable under the Act; and

(3) to prohibit courts from taking cognizance of an offence under the Act except on a report of the facts constituting such offence made with the previous sanction of the Chief Welfare Fund Inspector.

Clause 11.—This clause seeks to insert new sections 14A and 14B for prescribing enhanced punishment for default in payment

of employees contributions already deducted and for second or subsequent offences.

Clause 12.—There is no provision in the Act enabling Government to issue directions to the Board or to order inquiry into the working of the Board. Government have also no power to supersede the Board when it fails to discharge its functions under the Act or the Scheme or exceeds or abuses its powers. This clause seeks to insert new sections 15A, 15B and 15C in the Act for the above purposes.

Clause 13.—This clause seeks to omit Section 16 of the Act which provides for the recovery of damages not exceeding twenty-five per cent from an employer who makes default in the payment of any amount due under the Act. As it is proposed to levy interest on such amount for belated payments, the provision for recovery of damages is not considered necessary.

Clause 14.—This clause seeks to insert a new section 17A for barring the jurisdiction of civil courts in respect of any matter which is by or under the Act required to be settled, decided or dealt with or to be determined, by the Government or the Board or the Chief Welfare Fund Inspector or any Welfare Fund Inspector.

Clause 15.—This clause seeks to insert a new provision to specifically empower the Government to make rules for the purpose of carrying into effect the provisions of the Act.

Clause 16.—This clause seeks to insert new items 2A, 16A and 16B in the Schedule to the Act.

The other amendments proposed in the Bill are only consequential.